

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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RBCI HOLDINGS, INC. f/k/a RHEINGOLD
BREWING COMPANY, INC.

CIVIL NO. 07-02877 (DC)

Plaintiff,

-against-

DRINKS AMERICAS HOLDINGS, LTD.

Defendant.

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**MOTION TO DISMISS
BY
DEFENDANT DRINKS AMERICAS HOLDINGS, LTD**

Defendant Drinks Americas Holdings, Ltd. ("Drinks Americas"), by its attorneys, hereby moves to dismiss the above captioned matter for lack of subject matter jurisdiction and failure to state a cause of action pursuant to Fed. R. Civ. P. 12(b)(1) & (6), and the Local Rules of this Court on the grounds that plaintiff lacks standing to bring trademark infringement claims against Drinks Americas, that plaintiff fails to state a claim upon which relief can be granted, and that this Court lacks subject matter jurisdiction.

This Motion is supported by:

1. *Defendant Drinks Americas' Memorandum of Law in Support of its Motion to Dismiss*; and
2. *Affirmation of Sheldon H. Gopstein, Esq. in Support of Defendant Drinks Americas' Motion to Dismiss and all attached Exhibits.*

Oral argument shall be held before the Honorable Denny Chin, United States District Court Judge, on a date and at a time to be designated by the Court at the United

States Courthouse for the Southern District of New York located 500 Pearl Street, New York, New York.

Dated: New York, New York
September 14, 2007

Respectfully submitted,

LAW OFFICES OF SHELDON H. GOPSTEIN, ESQ.

By: s/ Sheldon Gopstein

Sheldon H. Gopstein

Attorneys for Defendant,

Drinks Americas Holdings, Ltd.

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